

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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10. The following table shows the number of hours worked by 1000 employees in a company. Calculate the mean, median, mode and range.

REVIEW ARTICLE

This image shows a dark, textured surface, likely the cover or endpaper of a book. Four small, white, L-shaped metal fasteners or corner supports are attached to the surface at the corners.

10. The following is a list of the names of the members of the Board of Directors of the Company as of December 31, 1998:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

This image shows a dark, textured surface, possibly a book cover or endpaper, featuring several white rectangular marks. There are two pairs of marks near the top edge, one pair near the bottom edge, and one pair near the right edge. These marks are likely used for alignment or binding.

The image consists of a series of black horizontal bars of varying lengths, arranged vertically. These bars appear to be redacted text or code, as they are completely black and lack any discernible characters or symbols. The lengths of the bars vary, with some being relatively short and others being longer, creating a visual pattern of horizontal lines.

REVIEW ARTICLE

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The image consists of a vertical arrangement of nine horizontal black bars of different widths. At the top and bottom of this stack are two small, white, L-shaped brackets. The top bracket is positioned above the widest bar, and the bottom bracket is positioned below the narrowest bar. The bars are set against a plain white background.

This image shows a blank, aged, cream-colored page with a decorative scalloped edge. The paper has a slightly textured appearance and a few minor discolorations or foxing, particularly towards the bottom right.

100
100

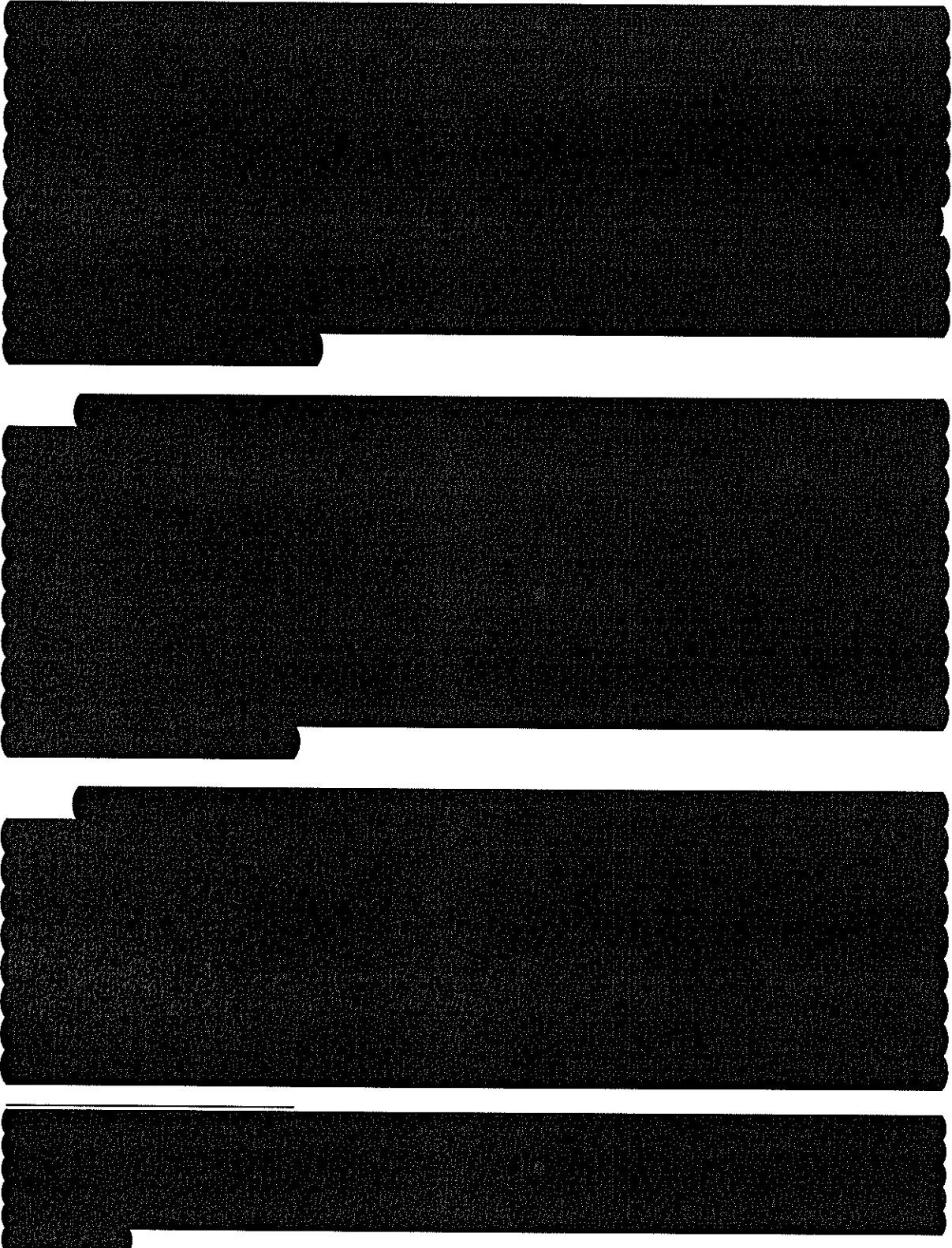
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10. The following table shows the number of hours worked by 1000 employees in a company. The data is grouped into 5 classes. Calculate the mean, median, mode and standard deviation.

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[REDACTED]

STATEMENT OF PUBLICATIONS, PRIOR TRIAL AND DEPOSITION TESTIMONY, & COMPENSATION

I. Publications

My publications from the last 10 years are listed on my CV, which is attached as Exhibit A.

II. Trial and Deposition Testimony

Within the past four years, I have provided deposition testimony in *Masimo v. Tyco* on October 2, 2006; *Rochester Medical Corporation v. C.R. Bard* on December 4-5, 2006 and May 31, 2007; *Louisiana Municipal Employees' Retirement System v. Crawford* on February 9, 2007; *Amgen v. F. Hoffman La Roche* on May 25, 2007; *NCAA v. White* on October 22, 2007; *Natchitoches Parish Hospital Service District v. Tyco* on March 11, 2008; *Daniels v. Tyco* on August 5, 2008; *Southeastern Milk Antitrust Litigation* on June 23, 2009; *Tessera* on September 22-23, 2009, and *In Re Marsh & McLennan Companies, Inc. Securities Litigation* on October 6, 2009.

Within the past four years, I have also testified at trial in *Applied Medical Resources v. Ethicon* on July 27-28, 2006, and August 22, 2006; in *Amgen v. F. Hoffman La Roche* on December 7, 2007, and in *Natchitoches Parish Hospital Service District v. Tyco* at a court hearing on January 8-9, 2009 and a trial on December 17, 2009. I also testified in the arbitration hearing in *BP America v. Repsol* on June 4, 2009. Other cases in which I have filed expert reports in the last four years are listed in my CV, which is attached as Exhibit A.

III. Compensation

I am being compensated at a rate of \$950 per hour for my work on this case.

EXHIBIT A

**Einer Richard Elhauge
Harvard Law School
1575 Massachusetts Ave.
Cambridge, Ma 02138**

**Tel: (617) 496-0860
Fax: (617) 496-0861**

**Hauser Hall 502
elhauge@law.harvard.edu**

EMPLOYMENT

Petrie Professor of Law, Harvard University

Subjects: Antitrust, Contracts, Health Law Policy, Statutory Interpretation.

Founding Director, Petrie-Flom Center for Health Law Policy, Biotechnology and Bioethics.

Chair, Obama Campaign's Antitrust Advisory Committee

Co-Chair, Obama Campaign's Blogs and Op-eds Committee

Member, Obama Campaign's Health Policy Advisory Committees.

Member, Advisory Board for the Journal of Competition Law & Economics.

Member, Advisory Board for the Social Sciences Research Network on Antitrust Law & Policy.

Member, Advisory Board for the Social Sciences Research Network on Telecommunications &
Regulated Industries.

Books

ELHAUGE, ED., THE FRAGMENTATION OF U.S. HEALTH CARE: CAUSES AND SOLUTIONS (Oxford University Press 2010).

ELHAUGE, U.S. ANTITRUST LAW & ECONOMICS (Foundation Press 2008).

ELHAUGE, STATUTORY DEFAULT RULES (Harvard University Press 2008).

ELHAUGE & GERADIN, GLOBAL ANTITRUST LAW & ECONOMICS (Foundation Press 2007).

ELHAUGE & GERADIN, GLOBAL ANTITRUST LAW & ECONOMICS (Supplement Foundation Press 2007).

ELHAUGE & GERADIN, GLOBAL COMPETITION LAW & ECONOMICS (Hart Publishing 2007).

AREEDA, ELHAUGE & HOVENKAMP, VOL X, ANTITRUST LAW (Little, Brown 1996).

ELHAUGE, CONTRACTUAL DEFAULT RULES (forthcoming Foundation Press).

ELHAUGE, ED., RESEARCH HANDBOOK ON THE ECONOMICS OF ANTITRUST LAW (forthcoming Edward Elgar Publishing Ltd.).

ELHAUGE, ED., RESEARCH HANDBOOK ON HEALTH LAW AND POLICY (forthcoming Edward Elgar Publishing Ltd.).

Academic Articles

Elhauge, *The Failed Resurrection of the Single Monopoly Profit Theory*, 6 COMPETITION POLICY INTERNATIONAL (forthcoming Spring 2010).

Elhauge & Wickelgren, *Robust Exclusion Through Loyalty Discounts*, Harvard Law School Discussion Paper No. 662 (Jan. 2010).

Elhauge, *Why the Google Books Settlement Is Procompetitive*, J. LEGAL ANALYSIS (forthcoming 2010), Harvard Law School Olin Center Discussion Paper 646 (Dec. 2009).

Elhauge, *Tying, Bundled Discounts, and the Death of the Single Monopoly Profit Theory*, 123 HARVARD LAW REVIEW 397 (2009).

Elhauge, *Framing the Antitrust Issues in the Google Books Settlement*, GLOBAL COMPETITION POL'Y, (October 2009 Release 2).

Elhauge, *How Loyalty Discounts Can Perversely Discourage Discounting*, 5 JOURNAL OF COMPETITION LAW & ECONOMICS 189 (2009)

Elhauge, *Disgorgement as an Antitrust Remedy*, 76 ANTITRUST LAW JOURNAL 79 (2009).

Elhauge, *Do Patent Holdup and Royalty Stacking Lead to Systematically Excessive Royalties?*, 4

JOURNAL OF COMPETITION LAW & ECONOMICS 535 (2008)

Elhauge, *How Should Competition Law Be Taught?*, 4 COMPETITION POLICY INTERNATIONAL 267
(Spring 2008)

Elhauge, *Harvard, Not Chicago: Which Antitrust School Drives Recent Supreme Court Decisions?*,
3 COMPETITION POLICY INTERNATIONAL 59 (Autumn 2007)

Elhauge, *Can Health Law Become a Coherent Field of Law?*, 41 WAKE FOREST L. REV. 365 (2006).

Elhauge, *Sacrificing Corporate Profits in the Public Interest*, 80 N.Y.U. LAW REVIEW 733 (2005)

Elhauge, *Corporate Manager's Operational Discretion to Sacrifice Corporate Profits in the Public
Interest*, in ENVIRONMENTAL PROTECTION AND THE SOCIAL RESPONSIBILITY OF FIRMS 13-76
(Bruce Hay, Robert Stavins, & Richard Vietor eds., 2005)

Elhauge, *Defining Better Monopolization Standards*, 56 STANFORD LAW REVIEW 253 (2003)

Elhauge, *Why Above-Cost Price Cuts to Drive out Entrants Do Not Signal Predation or Even
Market Power – and the Implications for Defining Costs*, 112 YALE LAW JOURNAL 681
(2003)

Elhauge, *Preference-Estimating Statutory Default Rules*, 102 COLUMBIA LAW REVIEW 2027 (2002)

Elhauge, *Preference-Eliciting Statutory Default Rules*, 102 COLUMBIA LAW REVIEW 2162 (2002)

Elhauge, *The Lessons of Florida 2000*, 110 POLICY REVIEW 15 (Dec 2001 -Jan 2002).

Elhauge, *What Term Limits Do That Ordinary Voting Cannot*, CATO POLICY ANALYSIS, No. 328
(Dec. 16, 1998), <http://www.cato.org/pubs/pas/pa-328es.html>.

Elhauge, *Are Term Limits Undemocratic?*, 64 U. CHIC. L. REV. 83 (1997).

Elhauge, Lott & Manning, *How Term Limits Enhance the Expression Of Democratic Preferences*,
5 SUPREME COURT ECON. REV. 59 (1997)

Elhauge, *The Limited Regulatory Potential of Medical Technology Assessment*, 82 VA. L. REV. 1525
(1996).

Elhauge, *Allocating Health Care Morally*, 82 CALIF. L. REV. 1449 (1994)

- Elhauge, *Toward a European Sale of Control Doctrine*, 41 AM. J. COMP. LAW 627 (1993)
- Bundy & Elhauge, *Knowledge About Legal Sanctions*, 92 MICH. L. REV. 261 (1993)
- Elhauge, *The Triggering Function of Sale of Control Doctrine*, 59 U. CHIC. L. REV. 1465 (1992)
- Elhauge, *Making Sense of Antitrust Petitioning Immunity*, 80 CALIF. L. REV. 1177 (1992)
- Bundy & Elhauge, *Do Lawyers Improve the Adversary System? A General Theory of Litigation Advice and Its Regulation*, 79 CALIF. L. REV. 313 (1991)
- Elhauge, *Does Interest Group Theory Justify More Intrusive Judicial Review?*, 101 YALE L.J. 31 (1991)
- Elhauge, *The Scope of Antitrust Process*, 104 HARV. L. REV. 667 (1991)

Media Publications

- "Coverage vs Coercion," The Huffington Post (March 3, 2008)
- "Rewire This Circuit," The Wall Street Journal, A26 (Sept. 17, 2003)
- "Soft on Microsoft," The Weekly Standard (March 25, 2002)
- "Despite What the Critics Say, it Wasn't a Bag Job," Boston Globe (March 3, 2002)
- "Florida 2000: Bush Wins Again!," Weekly Standard (November 26, 2001)
- "State Made The Right Call On Microsoft," The Hartford Courant (Nov. 9, 2001)
- "States Should Seek More From Microsoft," San Francisco Chronicle (Nov. 6, 2001)
- "A Smart Move on Microsoft," Boston Globe (Sept. 11, 2001)
- "Competition Wins in Court," New York Times, (June 30, 2001)
- "Bush v. Florida," New York Times, A31 (Nov. 20, 2000)
- "Florida's Vote Wasn't 'Irregular,'" Wall Street Journal (Nov. 13, 2000)
- "The New 'New Property'," San Francisco Chronicle (Nov. 6, 2000)
- "The Real Problem with Independent Counsels," The Washington Times, A19 (Jun 30, 1999)
- "Foul Smoke," The Washington Post, A15 (August 4, 1998)

"The Court Failed My Test," The Washington Times, A-19 (July 10, 1998)
"Microsoft Gets an Undeserved Break," The New York Times, A21 (June 29, 1998)
"Medi-Choice," The New Republic, 24 (November 13, 1995)
"Term Limits: Voters Aren't Schizophrenic," Wall Street Journal, A-16 (March 14, 1995)

Harvard Committees

Chair, Harvard Law School Lateral Appointments Committee (1998-99), Member (2003-05).
Member, Harvard University Standing Committee on the Degree of Doctor of Philosophy in Health Policy (1996-99, 2006-07).
Member, Harvard University Internal Advisory Board for the Interfaculty Initiative in Health Policy (1996-99).
Member, Harvard Law School Lecturers and Visitors Committee (1996-98).

Past Academic Positions

1988-95	Professor of Law, Boalt Hall, University of California at Berkeley
1995	Visiting Professor of Law, Univ. of Chicago Law School
1994	Visiting Professor of Law, Harvard Law School
1993	Visiting Olin Faculty Fellow, Yale Law School
1991-92	Visiting Scholar in Europe at the Karolinska Institute, the Centre for Health Economics, the Rockefeller Foundation Study Center, Cambridge University, the European University Institute and the University of Florence

Clerkships

1987-88	Clerk for Justice William J. Brennan, Jr., United States Supreme Court
1986-87	Clerk for Judge William A. Norris, U.S. Court of Appeals for the Ninth Circuit

1986

Clerk for U.S. Solicitor General's Office, Washington, D.C.

Bar Admissions: Massachusetts (2000); Pennsylvania (1986); United States Courts of Appeals for the Fourth (1997), Sixth (2008), and Ninth Circuits (1987); Supreme Court of the United States (1997).

ECONOMICS EXPERT WORK

President, Legal Economics LLC, 2007 to present.

Senior Expert at Criterion Economics LLC, 2004-2007

Named One of World's Leading Competition Economists in the 2009 edition of the *International Who's Who of Competition Lawyers and Economists*.

Testifying Expert in *In re Marsh & McLennan Companies, Inc. Securities Litigation*, a case alleging securities violations from failure to disclose bid steering.

Testifying Expert in *Tessera Technologies v. Hynix Semiconductor*, a case alleging conspiracy to exclude outside technologies from semiconductor markets.

Testifying Expert in *American Steel Erectors v. Local Union No. 7*, a case alleging boycott claims related to steel erection and labor markets.

Testifying Expert in *BP America v. Repsol*, an arbitration.

Testifying Expert in *Food Lion v. Dean Foods Company*, a class action alleging conspiracies to restrict and foreclose competition in milk markets.

Testifying Expert in *Eisai Inc. v. Sanofi-Aventis U.S. LLC*, a case by a rival alleging foreclosure in anticoagulant pharmaceutical markets.

Testifying Expert in *Daniels v. Tyco*, a case by a rival alleging foreclosure from sharps containers and GPO markets.

Testifying Expert in *Natchitoches Parish Hospital v. Tyco*, a class action concerning sharps

containers and GPO markets.

Testifying Expert in *Amgen v. F. Hoffman La Roche*, concerning erythropoietin-simulating agents (ESAs) and white blood cell simulators (WBCs) pharmaceutical markets.

Testifying Expert in *White v. NCAA*, concerning markets for athletic and educational services.

Testifying Expert in *Applied Medical Resources v. Ethicon, Inc.*, concerning sutures, trocars, and GPO markets.

Testifying Expert in *Masimo Corp. v. Tyco Health Care Group*, concerning oximetry products and GPO markets.

Testifying Expert in *Rochester Medical v. Bard*, concerning catheter and GPO markets.

Testifying Expert in *Retractable Technologies, Inc. v. Becton Dickinson*, concerning syringes and GPO markets.

Testifying Expert in *Spartanburg v. Hill-Rom*, a class action concerning hospital beds and GPO markets.

Testifying Expert in *Mountain Area Realty v. Wintergreen Partners*, concerning conduct in the real estate brokerage services market.

Testifying Expert in *Louisiana Municipal Police Employees' Retirement System v. Crawford*, concerning merger in the pharmacy benefit manager market.

Testifying Expert in *Capital Credit Alliance v. National Automated Clearing House Association*, concerning electronic checks market.

Testifying Expert for Intel before EC and Korean antitrust authorities on microprocessor markets.

Testifying Expert for AmBev before the EC and Brazilian antitrust authorities on beer market.

Testifying Expert for 1-800-Contacts before the FTC on OSI-CooperVision merger and agreements restraining distribution by nonprescribing retailers.

Testifying Expert in *In Re Cardizem CD Antitrust Litigation*, concerning patents and pharmaceuticals.

Testifying Expert regarding the *B.F. Goodrich-Coltec* Merger, concerning the aerospace industry.

Testifying Expert regarding the *Alcoa-Reynolds* Merger, concerning the aluminum industry

Expert Consultant to National Cable Television Association on Internet Access Bills before Congress and Interactive Television Inquiry before FCC.

Expert for Royal Caribbean for proposed mergers of Princess with Royal Caribbean and Carnival, concerning the cruise industry.

Expert for the Medical Device Manufacturers Association, producing Report to U.S. Senate and Statement to FTC/DOJ regarding exclusionary agreements between medical device suppliers and Group Purchasing Organizations and their hospitals.

MIXED LEGAL/ECONOMIC WORK

FTC Special Employee on Antitrust Issues.

Expert on Antitrust and Statutory Interpretation testifying before the New Jersey legislature testifying for Yankees Entertainment & Sports Network, LLC, regarding cable access legislation.

Confidential Consultant for various clients on issues of antitrust law or economics involving many industries, including: advertising, airlines, air cargo, aircraft repair, agriculture, armor, automobiles, beer, cigarettes, computers, contact lenses, electronic commerce, food, express mail, financial markets, hospitals, hotels, insurance (health and auto), Internet software and technology, medical services, metals, petfood, pharmaceuticals, podiatry, real estate brokerage services, retail, telecommunications, television, ticket brokering, vacation packages, and wireless telephony.

EDUCATION

Harvard Law School

J.D., June 1986

Awards

Fay Diploma -- for graduating first in class

Sears Prize -- Second Year -- to top two students in class

Sears Prize -- First Year -- to top two students in class

Activities

Harvard Law Review, Articles Office Co-Chair

Class Marshal

Author: *Modes of Analysis: The Theories and Justifications of Privileged Communications*,
98 HARV. L. REV. 1471-1500 (1985).

Harvard College

B.A., June 1982

Graduated in three years, majoring in Biochemical Sciences. GPA 3.9

PERSONAL

Born of Argentinian immigrants in New York City. First language was Spanish. Live with wife and 3 children in Newton, Massachusetts.

STATEMENT OF DOCUMENTS RELIED UPON

Pleadings

Amended Complaint
Defs' Mem. In Support of Summary Judgement

Responses to Interrogatories

DAIRY FARMERS OF AMERICA, INC.'S OBJECTIONS AND AMENDED RESPONSES TO INTERROGATORIES 1-4, AND 6-10 OF DAIRY FARMER PLAINTIFFS' SECOND SET OF INTERROGATORIES TO DEFENDANT DAIRY FARMERS OF AMERICA

Expert Reports

Expert Declaration of Professor Einer Elhauge in Support of Opposition to Summary Judgment,
Case No. 2:07-CV-188

Books

IIB AREEDA, HOVENKAMP & SOLOW, ANTITRUST LAW (3d ed. 2007)
IV AREEDA, HOVENKAMP & SOLOW, ANTITRUST LAW (2nd ed. 2005)
CARLTON & PERLOFF, MODERN INDUSTRIAL ORGANIZATION, 107-08 (4th ed., 2005)
ELHAUGE, U.S. ANTITRUST LAW & ECONOMICS 199-216 (Foundation Press 2008)
ELHAUGE & GERADIN, GLOBAL ANTITRUST LAW AND ECONOMICS, 1012-1013 (2007)
HOVENKAMP, FEDERAL ANTITRUST POLICY §1.2b (1994).
HOVENKAMP, FEDERAL ANTITRUST POLICY 421 (2d ed. 1999)
XI HERBERT HOVENKAMP, ANTITRUST LAW 94-95 (1998)
XIII HOVENKAMP, ANTITRUST LAW 252, 272-273 (2d ed. 2005)

Articles

Bernard & Bernard, *What Is it About Organic Milk?: An Experimental Analysis*, 91 AMER. J. AGR. ECON. 826, 826-836 (2009)
Dhar & Foltz, *Milk by Any Other Name ... Consumer Benefits from Labeled Milk*, 87 AMER. J. AGR. ECON. 214, 224-25 (2005)
Einer Elhauge, *Defining Better Monopolization Standards*, 56 STANFORD L. REV. 253, 288-92 (2003).
Einer Elhauge, *Tying, Bundled Discounts, and the Death of the Single Monopoly Profit Theory*, 123 HARV. L. REV. 397, 413-17 (2009).
Erba et. al, *An Analysis of Processing and Distribution Productivity and Costs in 35 Fluid Milk Plants*, Cornell Program on Dairy Markets and Policy 28-29, 31 (1997)
David S. Evans & Richard Schmalensee, *A Guide to the Antitrust Economics of Networks*, ANTITRUST, Spring 1996
Elizabeth Granitz & Benjamin Klein, *Monopolization by "Raising Rivals' Costs": The Standard Oil Case*, 39 J. L. & ECON. 1 (1996)
James E. Hodder & Yael A. Ilan, *Declining Prices and Optimality When Costs Follow an Experience Curve*, 7 MANAGERIAL & DECISION ECON. 229 (1986)

Herbert Hovenkamp, *Mergers and Buyers*, 77 VA. L. REV. 1369 (1991)
Ed Jesse and Bob Cropp, *Basic Milk Pricing Concepts for Dairy Farmers*, UNIV. WISC. - EXTENSION, Jan. 2004
S.J. Liebowitz & Steve Margolis, *Network Effects and Externalities*, in THE NEW PALGRAVE'S DICTIONARY OF ECONOMICS AND THE LAW 671 (1998).
Michael L. Katz & Carl Shapiro, *Systems Competition and Network Effects*, 8 J. ECON. PERSP. 93 (1994)
Thomas G. Krattenmaker & Steven C. Salop, *Anticompetitive Exclusion: Raising Rivals' Costs to Achieve Power over Price*, 96 YALE L. J. 209, 238-40 (1986)
Stephen C. Salop & David T. Scheffman, *Raising Rivals' Costs*, 73 AM. ECON. REV. 267 (1983) (Special Issue)
Siebert et al., *Suiza Foods Corporation: Best Management Strategy in the Fluid Milk Industry*, 3 INT'L. FOOD & AGRIBUSINESS MGM'T REVIEW 445 (2000).
A. Michael Spence, *The Learning Curve and Competition*, 12 BELL J. ECON. 49 (1981)

Depositions

Deposition of Donald Ault, June 26, 2009
Deposition of Patrick Ray Beamen, Aug. 5, 2009
Deposition of Cletes O. Beshears, April 21, 2009
Deposition of Gary Bos, Vol. 1, Sept. 6, 2001
Deposition of Gary Bos, Vol. 3, Sept. 30, 2009
Deposition of Newton D. Brookshire III, Vol. 1, Aug. 1, 2005
Deposition of Newton D. Brookshire III, Vol. 2, Sept. 18, 2009
Deposition of Jay Stanley Bryant, Vol. 1, May 13, 2003
Deposition of Jay Stanley Bryant, Vol. 2, Apr. 4, 2005
Deposition of Jay Stanley Bryant, Vol. 3, Apr. 17, 2009
Deposition of Jay Stanley Bryant, Vol. 4, Nov. 30, 2009
Deposition of Willie Erwin Burt, Aug. 13, 2009
Deposition of John Collins, Vol. 1 July 21, 2006
Deposition of John Collins, Vol. 2, July 30, 2009
Deposition of Gary Corbett, Oct. 30, 2009
Deposition of Robert Cort, July 30, 2009
Deposition of Robert J. Cottet, Sept. 24, 2009
Deposition of Calvin Covington, Vol. 2, Dec. 5, 2009
Deposition of Marty Devine, Vol. 3, Oct. 13, 2009
Deposition of Marty Devine, Vol. 4, Feb. 25, 2010
Deposition of Gregg Engles, Nov. 16, 2009
Deposition of Sonia Fabian, Apr. 10, 2009
Deposition of Rick Fehr, Vol. 2, Sept. 2, 2009
Deposition of Rick Fehr, Vol. 4, Jan. 14, 2010
Deposition of Betty Gist, Vol. 2, May 14, 2009
Deposition of Gary Hanman, Vol. 1, Aug. 29, 2001
Deposition of Gary Hanman, Vol. 3, July 16, 2002
Deposition of Gary Hanman, Vol. 4, Dec. 12, 2003

Deposition of Gary Hanman, Vol. 5, Oct. 6, 2009
Deposition of Brian Haugh, Aug. 25, 2009
Deposition of Elvin Hollon, Apr. 15, 2009
Deposition of Byron Meredith, Dec. 28, 2009
Deposition of Allen A. Meyer, Vol. 3, June 30, 2005
Deposition of Allen A. Meyer, Vol. 4, Aug. 4, 2009
Deposition of Tracy L. Noll, Vol. 1, July 27, 2001
Deposition of Tracy L. Noll, Vol. 2, Apr. 24, 2009
Deposition of Kent Poplin, June 24, 2009
Deposition of Pete Schenkel, Vol. 1, Aug. 14, 2001
Deposition of Pete Schenkel, Vol. 2, June 30, 2005
Deposition of Sidney Schepps, June 19, 2009
Deposition of Jeff Sims, Vol. 1, Jan. 28, 2009
Deposition of Richard P. Smith, Oct. 29, 2009
Deposition of Kathy Turner, Vol. 3, Sept. 22, 2009
Deposition of Kathy Turner, Vol. 4, Jan. 12, 2010
Deposition of John Wilson, Sept. 16, 2009
Deposition of Ernest Walton Yates, Oct. 30, 2009

Bates Numbered Documents

AULT-000006
AUTL-0000028

DCMA008315-DCMA008326

DEAN00000759-DEAN00000768
DEAN00000769-DEAN00000770
DEAN00000786-DEAN00000806
DEAN00002857
DEAN00002865-DEAN00002866

DEAN00053511-DEAN00053541
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DEAN00113284-DEAN00113285
DEAN00113915-DEAN00114120
DEAN00155608-DEAN00155611

DEAN00168698-DEAN00168699
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DEAN00567105-DEAN00567106
DEAN00594115
*DEAN00643864
DEAN00730822-DEAN00730896
DEAN00773634-DEAN00773877
DEAN00780066-DEAN00780068
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DEAN00908347-DEAN00908350
DEAN00908394-DEAN00908575
DEAN00908648-DEAN00908711
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DEAN00908879-DEAN00908904
DEAN00909138-DEAN00909227
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DEAN01671290-DEAN01671292
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DFA01-1097070-DFA01-1097123
DFA01-1100692-DFA01-1100805
DFA01-1103248-DFA01-1103249
DFA01-1122594
DFA01-1173269-DFA01-1173270
DFA01-1117485-DFA01-1117494
DFA01-1184620-DFA01-1184632
*DFA01-1200491
DFA01-1205604-DFA01-1205609
DFA01-1257850-DFA01-1257887
DFA01-1264192-DFA01-1264193
DFA01-1264211-DFA01-1264212
DFA01-1264636-DFA01-1264639
DFA01-1281694-DFA01-1281717
DFA01-1287661-DFA01-1287664
DFA01-1349352-DFA01-1349355
DFA01-1391592-DFA01-1391601
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DMS01-0224519-DMS01-0224520

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FL00007384-FLP00007385

FLP-000007252

MDVA001485.0001-MDVA001485.0003

NDH00015860-NDH00015876
NDH00020533-NDH0020545
NDH00055418-NDH00055420
NDH00138624

NDH00248781
NDH00250992-NDH00250997
NDHE-00002329.
NDHe00012079-NDHe00012080
NDHe00013907
NDHe00006714
NDHe00080073-NDHe00080075
NDHe00085619-NDHe00085620
NDHE00116050

SMA0165941-SMA0166033
SMA-0024550-SMA_0024571
SMA_0037953-SMA_0037963
SMA_0145159-SMA

SMI0004723-SMI0004727

Data

2010.03.04 Milk data.csv
distribution plant master file.xls
Raw milk cost_5_7.xls
matched facilities.csv
USDA's Agricultural Marketing Service's List of Regulated Milk Plants:
FMOPlantMaster_02.xls,
FMOPlantMstr_03.xls,
FMOPlantMstr_04.xls,
FMOPlantMstr_05.xls,
FMOPlantMstr_06.xls,
FMOPlantMstr_07.xls,
FMOPlantMstr_08.xls,
FMOPlantMstr_09.xls

Other

Roger Cryan, U.S. Dairy, *A Local Affair: Comparing Fluid Milk Markets*
Dhar & Flotz, *Is Soy Milk? The Economics of the Soy Milk Market* (June 15, 2005)
Einer R. Elhauge, *Antitrust Analysis of GPO Exclusionary Agreements*, Comments Regarding Hearings on Health Care and Competition Law and Policy: Statement for DOJ-FTC Hearing on G P O s (S e p t . 2 6 , 2 0 0 3) , a v a i l a b l e a t http://www.law.harvard.edu/faculty/elhauge/pdf/statement_ftcdoj.pdf
Manchester & Blaynet, *Milk Pricing in the United States*, U.S. Department of Agriculture, Agriculture Information Bulletin No. 761
U.S. Department of Agriculture, *In re: Milk in the Appalachian and Southeast Marketing Areas; Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders*
U.S. DOJ/FTC Antitrust Guidelines for Collaborations Among Competitors §3.2 (2000)
U.S. Dept. of Justice and Federal Trade Commission, Horizontal Merger Guidelines §§1.11, 1.21, 1.52 (revised Apr. 8, 1997) [hereinafter Merger Guidelines].

U.S. Dept. of Justice and Federal Trade Commission, Commentary on the Horizontal Merger Guidelines (2006)

U.S. Dept. Of Justice Antitrust Division Policy Guide to Merger Remedies (Oct. 2004)

UNITED STATES GENERAL ACCOUNTING OFFICE, DAIRY INDUSTRY: INFORMATION ON MILK PRICES AND CHANGING MARKET STRUCTURE (June 2001)

UNITED STATES GENERAL ACCOUNTING OFFICE, DAIRY INDUSTRY: INFORMATION ON MILK PRICES AND CHANGING MARKET STRUCTURE (June 2004)

Figure 1: Average Prices of Bottled Milk and Raw Milk in Orders 5 and 7

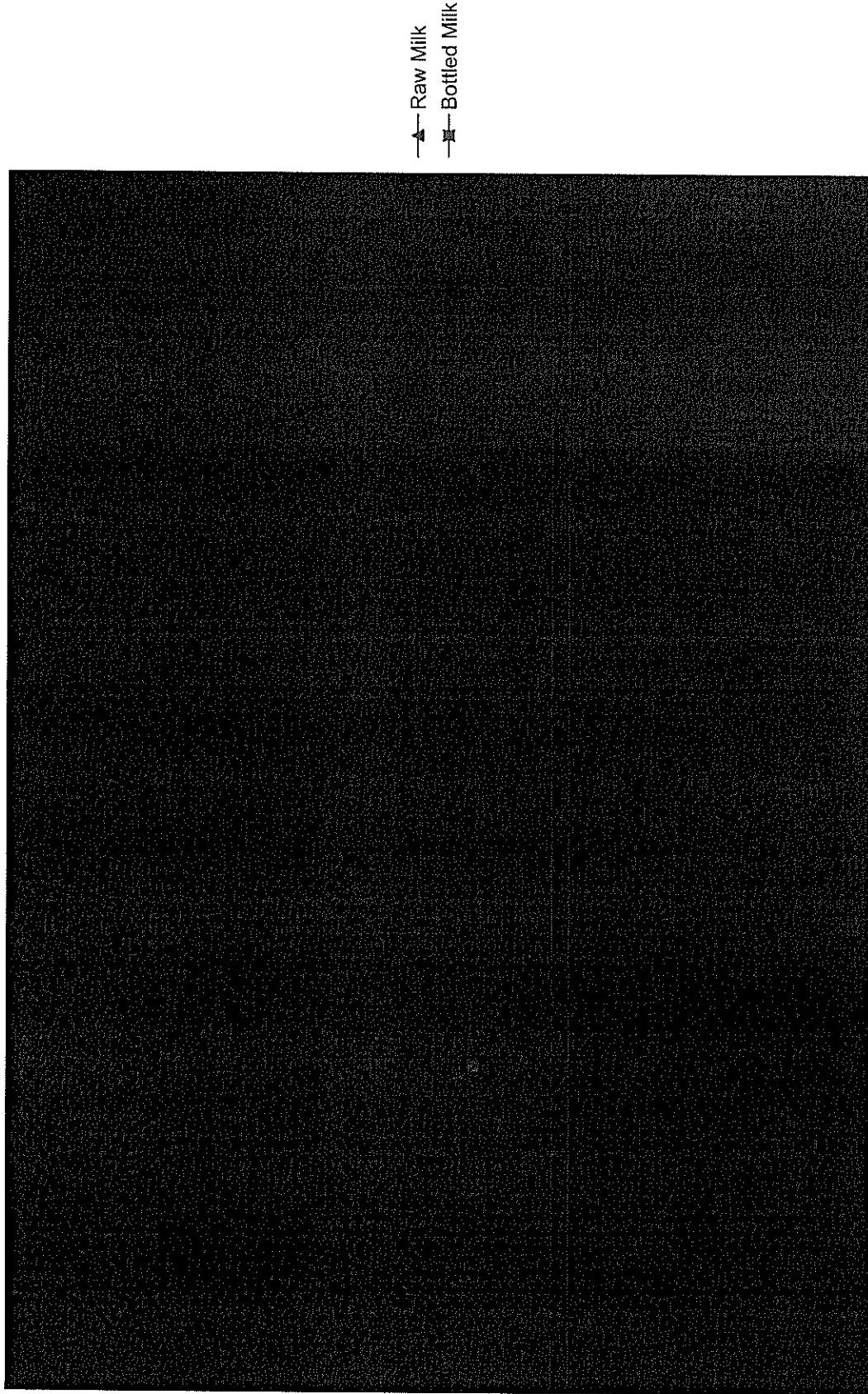


Figure 2: Raw Milk Prices

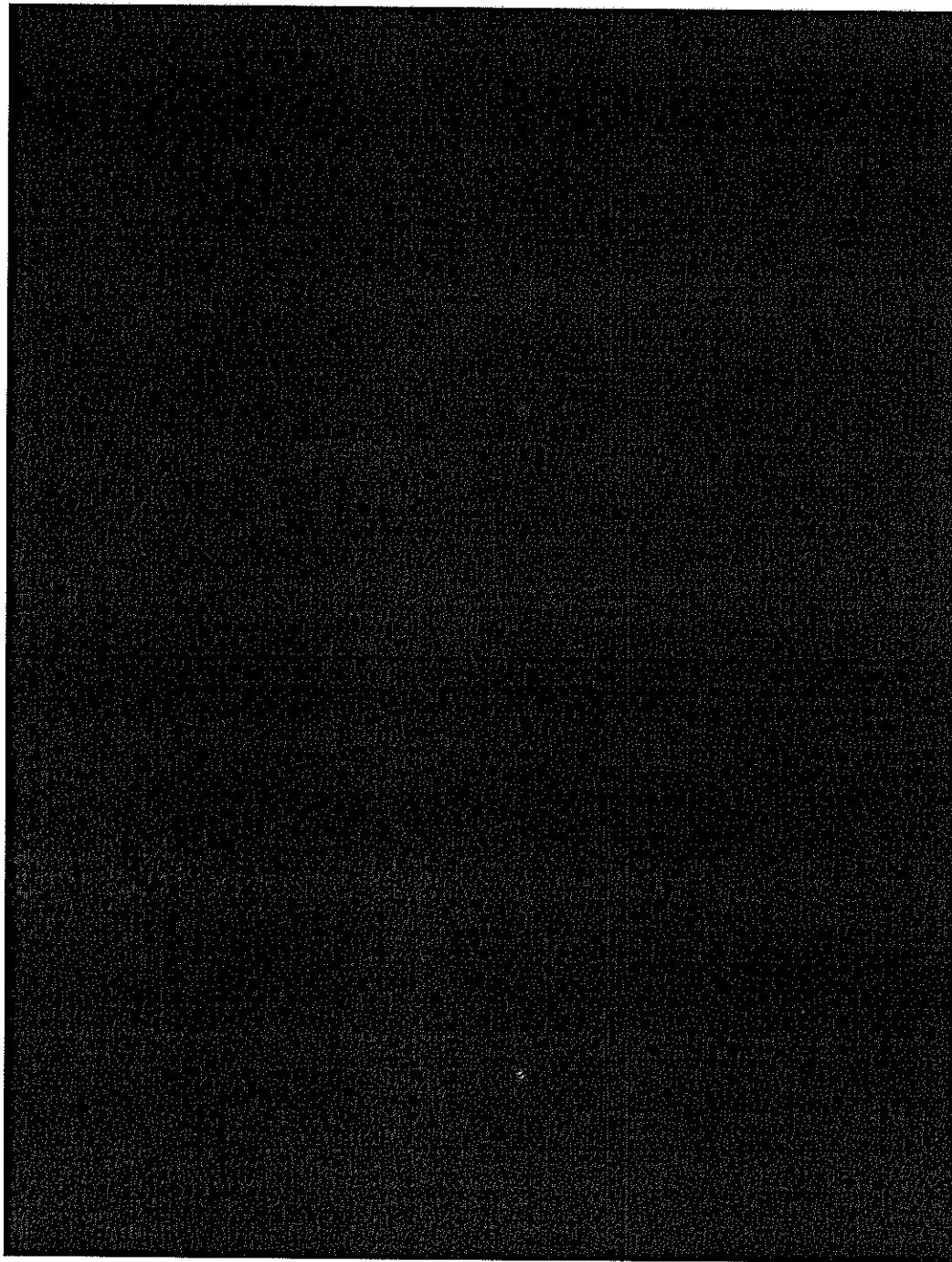
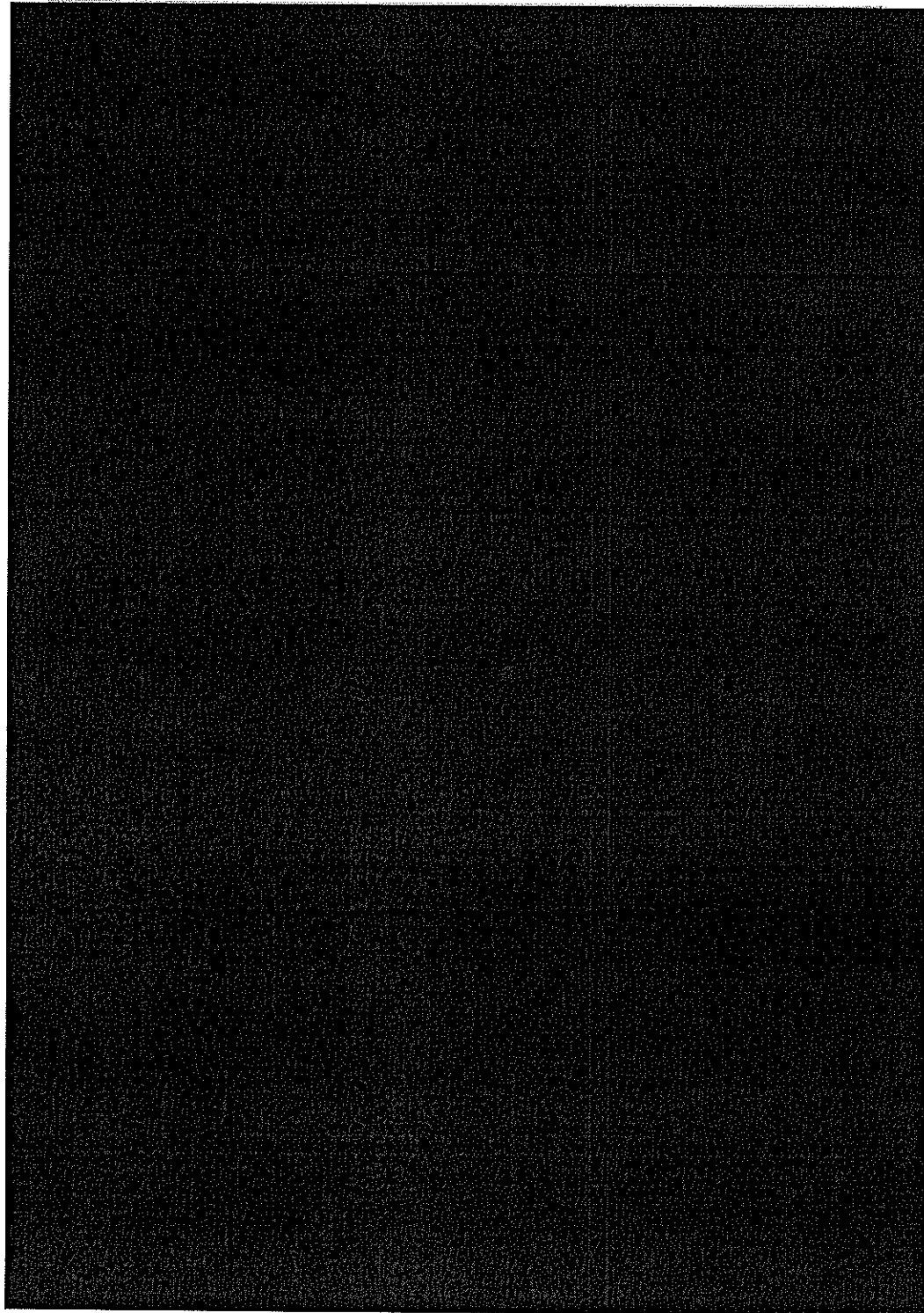


Figure 3: Aggregate Difference between Bottled Milk Prices and Raw Milk Prices



Source: Dean
and NDH Sales
Data, Raw Milk
cost_5_7.xls

Figure 4: Dean's Net Operating Margin in the Southeast for Fluid Milk

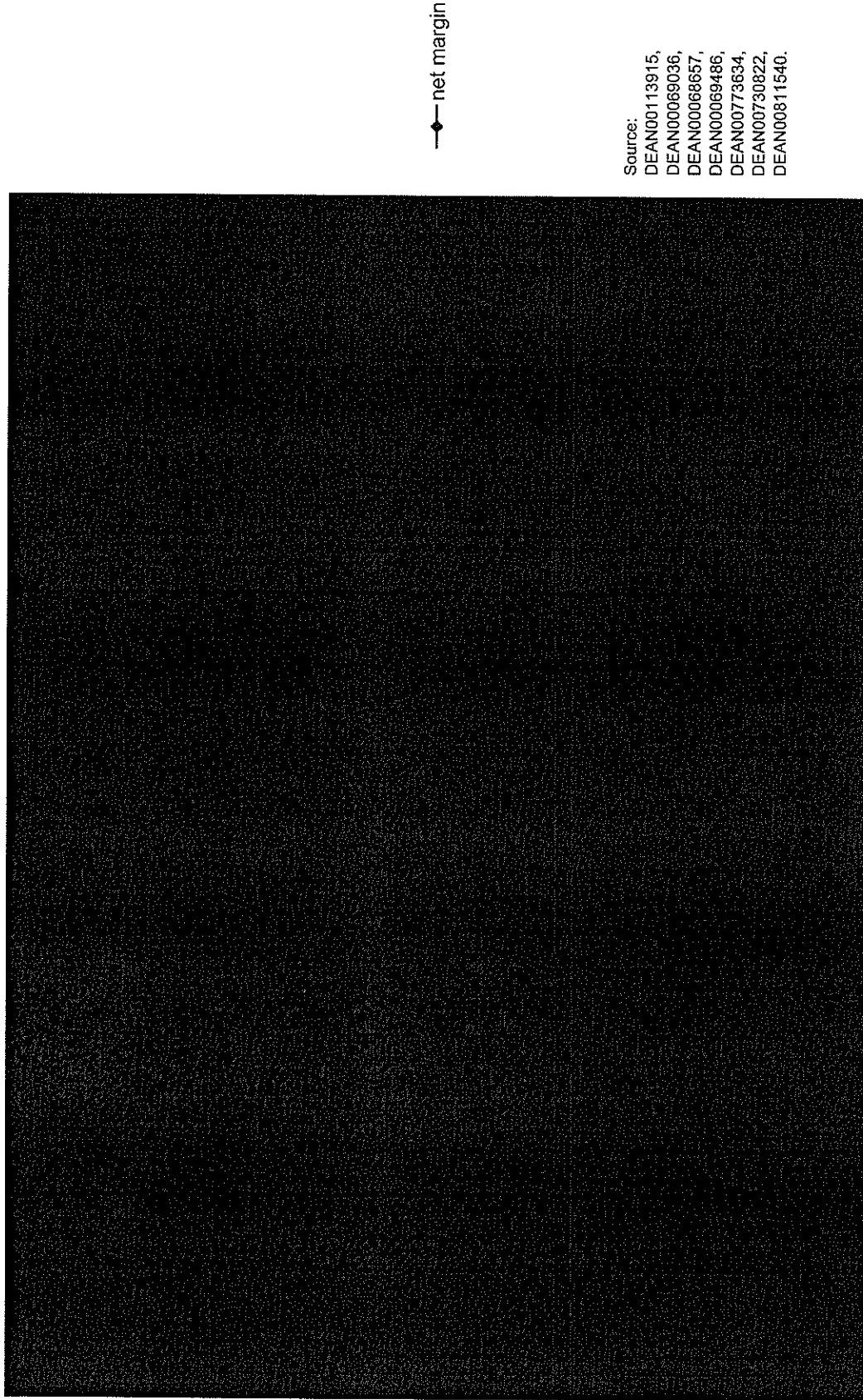


Figure 5: Average distance for Dean plants to the closest NDH or DFA plant

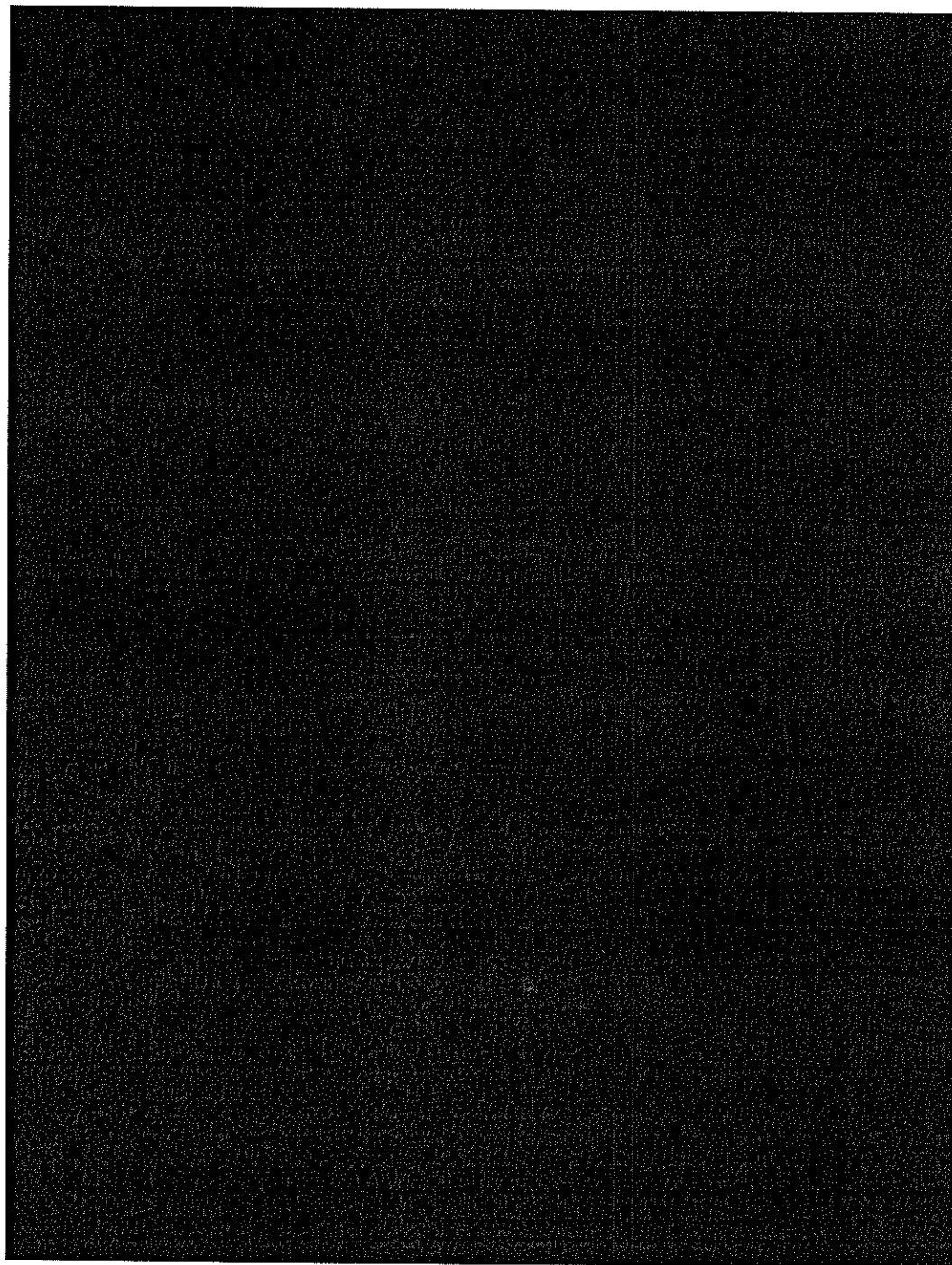


Figure 6: Average (mean) distance to the closest rival plant

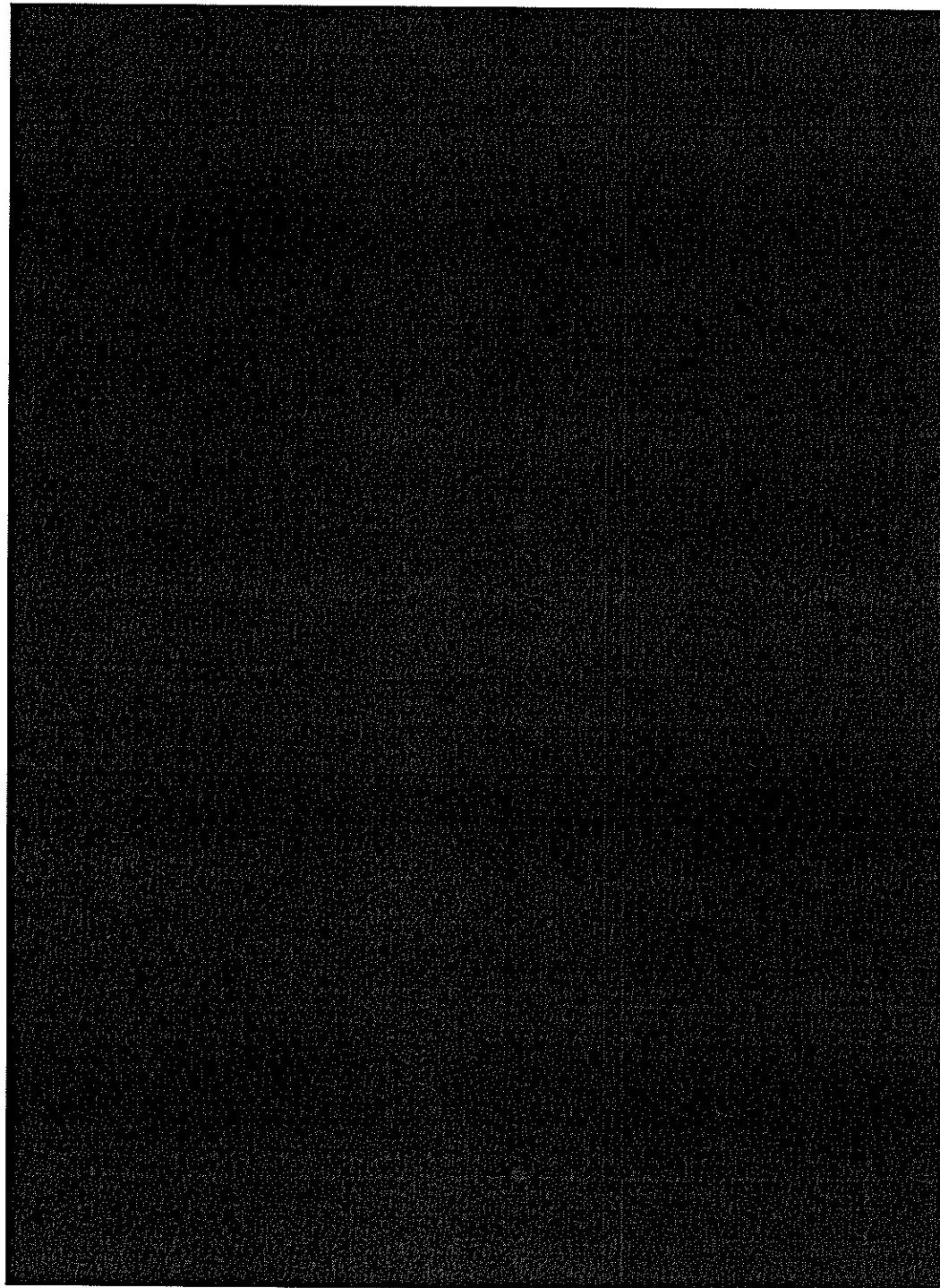
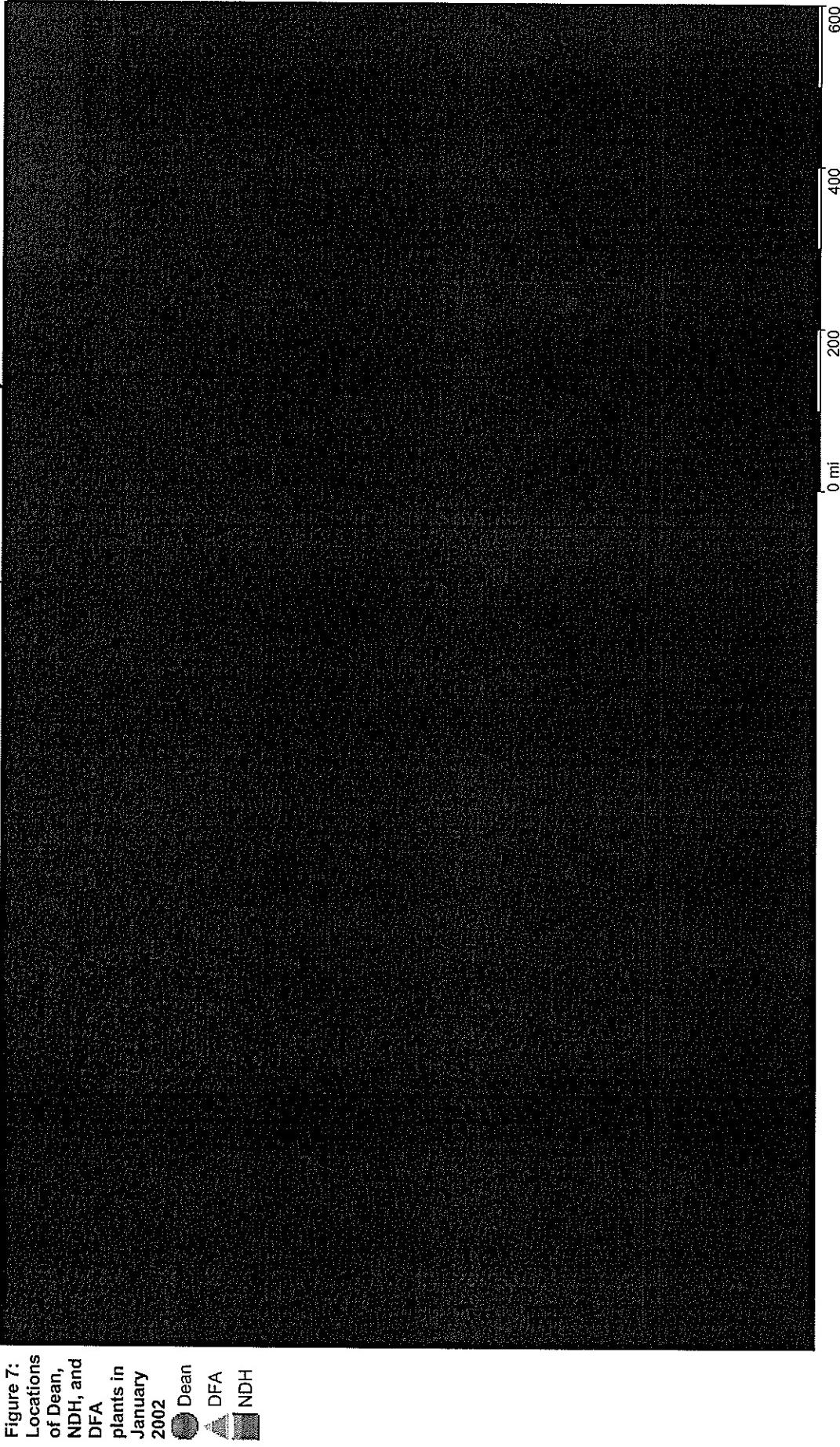


Figure 7: Locations of Dean, NDH, and DFA plants in January 2002



**Figure 7:
Locations
of Dean,
NDH, and
DFA
plants in
January
2002**

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Figure 8: Locations of Dean, NDH, and DFA plants in December 2007

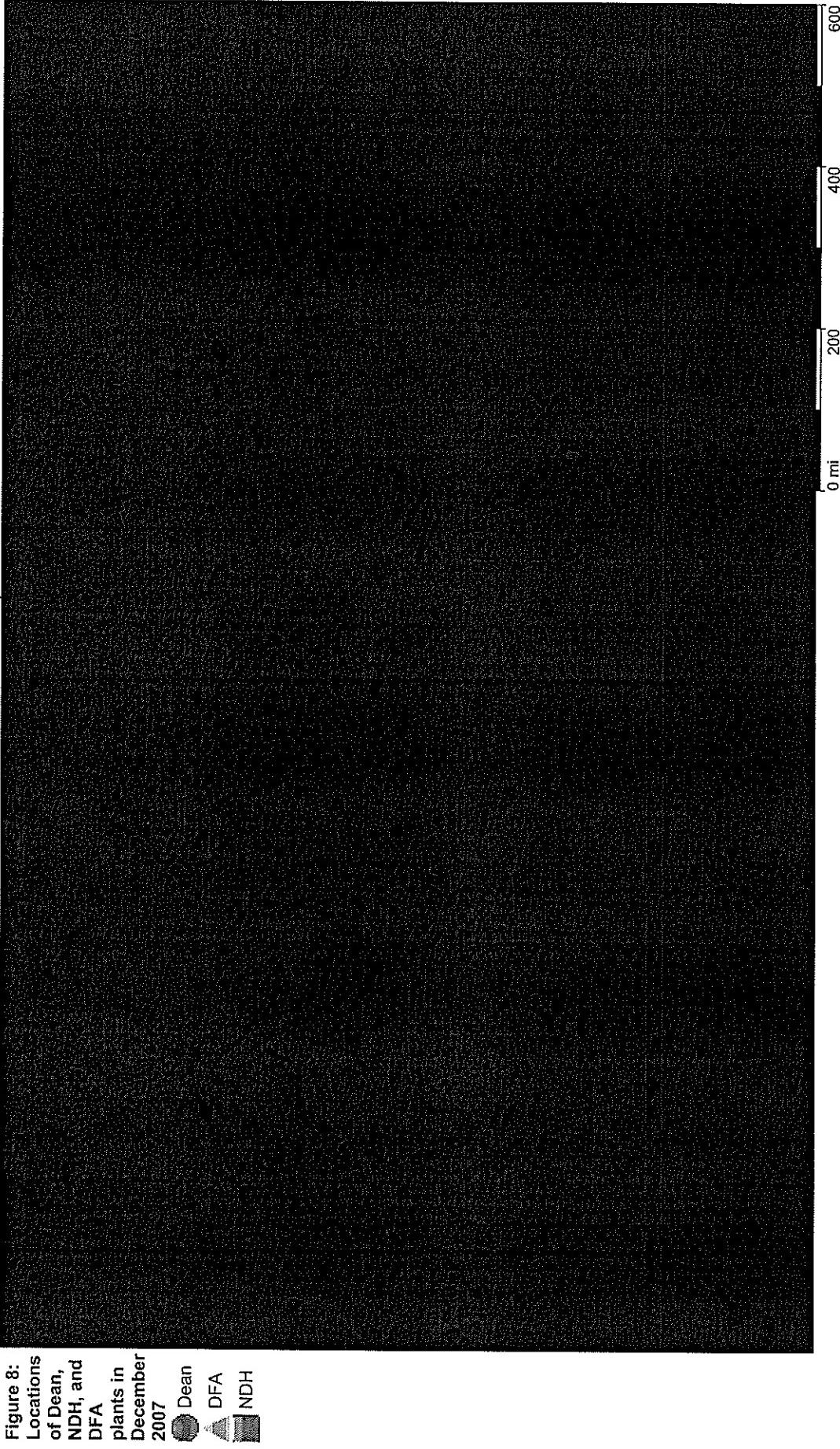


Figure 8:
Locations
of Dean,
NDH, and
DFA
plants in
December
2007

- Dean
- DFA
- NDH

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